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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,892	08/04/2003	Chun-Liang Lee	LA-7196-121/10309329	6682
167	7590	03/16/2006	EXAMINER	
FULBRIGHT AND JAWORSKI LLP 555 S. FLOWER STREET, 41ST FLOOR LOS ANGELES, CA 90071			DU, THUAN N	
			ART UNIT	PAPER NUMBER
			2116	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/633,892	LEE, CHUN-LIANG	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thuan N. Du	2116	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 1-16 are presented for examination.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations “the current distribution of power load” in lines 6-7, “the power supply” in line 7, “the current operating modes” in lines 10-11, and “the highest-performance server module” in lines 11-12. There is insufficient antecedent basis for these limitations in the claim.

Claim 2 recites the limitations “the current working temperature” in lines 2-3, and “the overheated server module” in line 6. There is insufficient antecedent basis for these limitations in the claim.

Claim 6 recites the limitations “the current distribution of power load” in lines 6-7, “the power supply” in line 7, and “the highest-performance” in line 12. There is insufficient antecedent basis for these limitations in the claim.

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Claim 7 recites the limitations “the current working temperature” in lines 2-3, and “the overheated server module” in line 5. There is insufficient antecedent basis for these limitations in the claim.

Claim 12 recites the limitations “the current distribution of power load” in lines 6-7, “the power supply” in line 7, “the highest-performance” in line 12, “the current working temperature” in lines 17-18, and “the overheated server module” in line 20. There is insufficient antecedent basis for these limitations in the claim.

Claims 3-5, 8-11 and 13-16 are also rejected for incorporating the above deficiency by dependency.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fung (U.S. Patent No. 6,859,882) in view of Opreescu et al. [Opreescu] (U.S. Patent No. 5,842,027).

6. Regarding claim 1, Fung teaches a blade server performance method for use on a blade server including a cluster of server modules [col. 6, lines 44-48], each server module being capable of offering at least two different operating modes [col. 21, lines 20-54], for providing a performance management function on the clustered server modules in the blade server [col. 21, lines 20-54];

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the blade server performance management method comprising:

performing a power-load detecting procedure to detect a current distribution of power load by a power supply of the blade server to the clustered server modules in the blade server [col. 16, lines 8-17];

performing a power-initiated operating mode adjusting procedure to switch a highest-performance server module to a lower level of operating mode [col. 24, lines 25-41].

Fung does not explicitly teach a detection of the current distribution of power load to the clustered server modules is below a rated power level.

Oprescu teaches the determination whether the current distribution of power load to the components is below a rated power level [col. 8, lines 1-65].

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Fung to include the determination whether the current distribution of power load to the components is below a rated power level as taught by Oprescu. The modification would increase the flexibility and reliability of Fung's system by allowing the system adjusts the clock frequency of the server module not only when a temperature of the server module rises above a threshold but also when the current distribution of power load to the clustered server modules is below a rated power level.

7. Regarding claims 2-3, Fung teaches that performing a temperature-initiated operating mode adjusting procedure to switch an overheated server module to a lower level of operating mode [col. 24, lines 25-41].

8. Regarding claims 4-5, Fung teaches that the clustered server modules include a plurality of operating modes [col. 21, lines 20-54].

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9. Regarding claims 6-16, they do not teach or further define over the limitations recited in the rejected claims above. Therefore, claims 6-16 are also rejected as being unpatentable over Fung in view of Opreescu for the same reasons set forth in the rejected claims above.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (571) 272-3673. The examiner can normally be reached on Monday-Friday: 9:30 AM - 6:00 PM, EST.

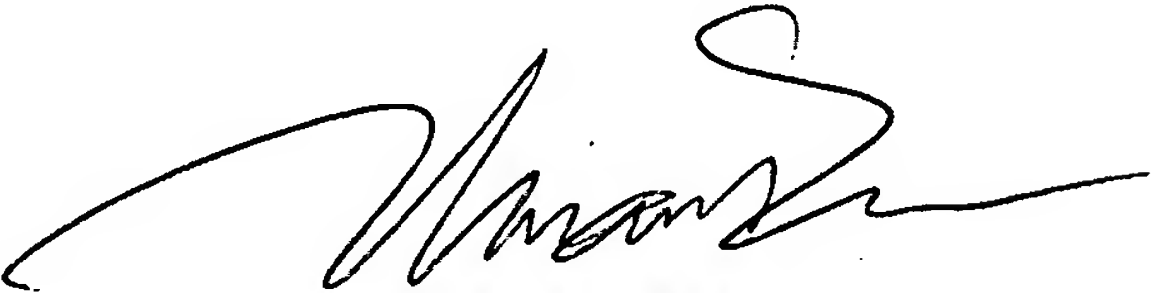
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (571) 272-3670.

Central TC telephone number is (571) 272-2100.

The fax number for the organization is (571) 273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

TD  
March 6, 2006



THUAN N. DU  
PRIMARY EXAMINER